

REMARKS

Before entry of this Response, claims 1-28 were pending in the application. Claims 10-12, 15, 20-24 and 26-28 have been withdrawn. After entry of this Response, claims 1-9, 13, 14, 16-19 and 25 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

The following is a brief summary of the Action. Claims 1-4, 6, 8, 9 and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Serbiak et al (USP 5,846,232). Claims 5 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Serbiak in view of Krautkramer et al (USP 6,231,557). Claims 13, 14 and 16-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Serbiak in view of Popp et al (U.S. Pub. 2002/0087139).

For the reasons explained below, applicants respectfully traverse the rejection of claims 1-4, 6, 8, 9 and 25 under 35 U.S.C. 103(a) as being unpatentable over Serbiak et al.

Each of applicants' claims 1 and 25 requires (emphasis added):

A **non-extensible** absorbent body structure sandwiched between said outer cover member and said body side liner;

Lines 4-6 on page 3 of the May 2008 Final Office Action contend that (emphasis added):

Serbiak teaches a non-extensible absorbent body structure **36** sandwiched between the outer cover member and the body side liner (Figs. 1-9, col. 7, line 39 to col. 8, line 26, col. 10, lines 12-15, Claim 3).

However, in Serbiak et al, the absorbent core 36 is not itself non-extensible. Absorbent

core 36 of Serbiak et al is only rendered non-extensible by being fixed to the base structure to form a non-extensible area 37, which is defined by the area over which the **absorbent core 36 is effectively attached to the base structure 26**. This is explained at Serbiak et al column 8, lines 17-20 as follows (emphasis added):

the absorbent core 36 is **fixed** to the base structure 26 to form a **non-extensible area 37** defined by the area over which the absorbent core 36 is **effectively attached** to the base structure 26.

Moreover, Serbiak et al makes it clear that but for the attachment, the absorbent core 36 can be part of an elastic extensible zone 30. This is explained at Serbiak et al column 8, lines 26-30 as follows (emphasis added):

In any area of the drawings in which the absorbent core 36 **is not secured to the base structure 26**, and elastic layer 28 is secured between body side liner layer 24 and outer cover layer 22, the region is marked with circles indicating an **extensible zone 30**.

Accordingly, Serbiak et al is deficient as to a **non-extensible** absorbent body structure required by each of claims 1 and 25 to be sandwiched between the outer cover member and the bodyside liner.

The bodyside liner of each of independent claims 1 and 25 is constructed with the following requirements (emphasis added):

said bodyside liner comprising a material
having

* * *

at least a **first and a second strip of substantially untensioned elastomeric material** wholly disposed on and attached to said base layer material to form flat planar composite regions with a **space between said strips** such that a center untensioned region of said base layer material is bordered on at least two longitudinally extending sides by said composite regions of said

elastomeric materials and said base layer material,
said center region generally disposed over said
absorbent body structure;

Line 14 on page 3 through line 4 on page 4 of the May 2008 Final Office Action
contend (emphasis added):

Serbiak teaches at least a first and a second strip of substantially untensioned elastomeric material wholly disposed on and attached to the base layer material to form flat planar composite regions **with a space between the strips** such that a center untensioned region of the base layer material is bordered on at least two longitudinally extending sides by the composite regions of the elastomeric materials and the base layer material, with the center region generally disposed over the absorbent body structure (**first and second strips include elastic layer 28**; center region includes the crosshatched area of absorbent core 36; Figs. 1, 3-6 and 8; col. 2, lines 42-47, col. 6, lines 24-31, col. 7, lines 11-38, col. 8, lines 37-31, col. 9, lines 18-23; Claims 10, 17, 23, 35; note that Serbiak teaches that the elastic layer 28 can be disposed where the extensible zones 30-30D are and does not need to extend over a greater area; the extensible zones are indicated in the figures by circles).

As quoted above, the May 2008 Final Office Action states that Serbiak et al's teaching of the **"first and second strips"** required by claims 1 and 25 **"include elastic layer 28."** As shown in Fig. 2 of Serbiak et al, elastic layer 28 is **continuous**, and thus Serbiak et al elastic layer 28 fails to leave **a space between said strips** as required by claims 1 and 25.

The bodyside liner of each of independent claims 1 and 25 is constructed with the following requirements (emphasis added):

wherein said center region of untensioned base layer material is bonded directly to the immediately underlying portion of said absorbent body structure in registry with the center region of untensioned base layer material in its untensioned condition **and said composite regions are**

stretchable in at least a second direction of said absorbent article.

As explained at page 4, lines 14 – 25, of applicants' specification (emphasis added):

The center region overlies an absorbent body structure in the absorbent article and may be adhered to at least a portion of the underlying absorbent body structure **to ensure that its capillary structure does not change upon stressing (stretching) the elastomeric side strips of the composite material.**

The **elastomeric side strips** may extend out to serve as elastomeric side portions and **provide the absorbent article chassis with** desired degrees of **stretch without compromising the structural integrity or characteristics of the liquid permeable center region of base material** and the underlying absorbent body structure. The side panels and an elastic outer cover may extend independently from the absorbent body structure, in which case the **absorbent structure need not extend and thus have its liquid handling properties change when the chassis is stretched.**

That is why each of claims 1 and 25 require the first and second strips of **substantially untensioned** elastomeric material wholly disposed on and attached to the base layer material to form **flat planar composite regions** with a space between the strips such that a center untensioned region of the base layer material is bordered on at least two longitudinally extending sides by the composite regions of the elastomeric materials and the base layer material and generally disposed over the absorbent body structure. Each of these composite regions outlies to one of the opposite sides of the center region of untensioned base layer material that is **bonded directly** to the immediately underlying portion of the absorbent body structure. Each of these composite regions stretches in at least a second direction other than just the longitudinal direction. By

being so constructed and disposed, the two outlying composite regions function to absorb any stretching that otherwise might reach the absorbent body structure and ruin the optimal capillary structure of the absorbent body structure. So the **flat planar composite regions** in applicants' claimed article in effect serve to protect the optimal absorbent qualities of the absorbent body structure.

The May 2008 Final Office Action acknowledges that Serbiak et al does not teach that the center region of untensioned base layer material (the bodyside liner) is bonded directly to the immediately underlying portion of the absorbent body structure.

To compensate for this deficiency in Serbiak et al, lines 3 – 7 of page 5 and lines 10 – 16 of page 7 of the May 2008 Final Office Action contend (emphasis added):

In light of Serbiak's teaching that the absorbent body structure is fixedly attached to a structure which includes the base layer material, it would have been obvious to one of ordinary skill in the art to modify Serbiak to include the center region of the base layer material being bonded directly to the immediately underlying portion of the absorbent body structure.

However, this conclusion of the May 2008 Final Office Action completely discounts the 180 degree difference between something that is **directly bonded** versus something that is **indirectly attached**. The error of such a conclusion already has been explained in applicants Amendment filed in March 2008, which is hereby incorporated herein by this reference. Moreover, this erroneous conclusion of the May 2008 Final Office Action fails to account for, much less overcome, the predisposition of the skilled artisan to avoid the risk of degrading either the permeability of the bodyside liner or the capillary absorbency of the portion of the absorbent body structure facing the bodyside

liner, if the bodyside liner portion of the absorbent body structure is bonded directly to the immediately underlying portion of the absorbent body structure.

In view of the deficiencies noted above in Serbiak et al, applicants respectfully submit that claims 1-4, 6, 8, 9 and 25 are patentable under 35 U.S.C. § 103(a) over Serbiak et al.

As noted above, the May 2008 Final Office Action contends that Serbiak et al **elastic layer 28** provides the two elastomeric strips to be attached to the base layer material per applicants' claim 1. Applicants' claim 9 requires the two elastomeric strips to be attached to the base layer material in a generally **tensioned** state. Paragraph 11 on page 8 of the May 2008 Final Office Action contends that Serbiak et al Figs. 1 – 9 and column 7, lines 11 – 36 disclose this **tensioned** state feature of applicants' claim 9. However, Serbiak et al Figs. 1 – 9 fails to show any such construction, and Serbiak et al column 7, lines 11 – 36 teaches the opposite. Indeed, Serbiak et al column 7, lines 23 – 38 plainly states (emphasis added):

Moreover, the bodyside liner layer 24, outer cover layer 22 and elastic layer 28 can simultaneously coexist in a substantially fully extended **unstressed** condition. This relationship is contemplated because **no significant stress** is placed upon the respective layers at the time the extensible zone 30 is formed.

Applicants therefore respectfully submit that claim 9 is patentable under 35 U.S.C. § 103(a) over Serbiak et al for this additional reason.

For the reasons explained below, applicants respectfully traverse the rejection of claims 5 and 7 under 35 U.S.C. 103(a) as being unpatentable over Serbiak et al in view of Krautkramer et al.

Krautkramer et al fails to correct the deficiencies noted above in Serbiak et al. Applicants therefore respectfully submit that claims 5 and 7 are patentable under 35 U.S.C. 103(a) over Serbiak et al in view of Krautkramer et al.

The November 2007 Office Action cited Krautkramer et al's leg elastic members 34 as if they are the same as the applicants' first and second strips of **substantially untensioned** elastomeric material that form each of the two **flat planar composite regions** that border one of the opposite sides of the center region of untensioned base layer material that is bonded directly to the immediately underlying portion of the absorbent body structure. The May 2008 Final Office Action apparently continues this erroneous conclusion in connection with rejection of applicants' claim 7.

However, as is the case with Krautkramer et al, leg elastics are usually themselves attached to the underlying substrate while the leg elastics are in a **highly tensioned condition** of at least 150%, if not 200%, elongation. Alternatively, as is the case with Krautkramer et al, if the leg elastics are to be applied in a substantially untensioned condition, then the substrate underlying the leg elastics must be in a **gathered condition**, and any combination of untensioned elastic and underlying gathered base layer material would not form a **flat planar composite region**.

Claim 1 clarifies that each of the outlying first and second strips is of **untensioned** elastomeric material is attached to an **untensioned** and **ungathered** base layer to form a **flat planar composite region** that borders the opposite sides of the central untensioned region bonded directly to the absorbent body structure. Thus, applicants' first and second strips **cannot** inadvertently implicate mere elastic strips around leg openings like the Krautkramer et al leg elastic members 34.

Applicants' claim 7, which depends on claim 1, requires the first and second elastomeric materials to comprise webs of elastomeric fibers. As to applicants' claim 7, lines 4 – 5 of paragraph 14 on page 9 of the May 2008 Final Office Action contend that Krautkramer et al "teaches elastomeric materials including webs of elastomeric fibers (col. 23, lines 24 – 55)." However, Krautkramer et al col. 23, lines 24 – 55 is concerned with the **Krautkramer et al leg elastic members 34**. As explained above, the Krautkramer et al leg elastic members 34 cannot pertain to applicants' first and second strips as required in applicants' claim 7. Applicants therefore respectfully submit that claim 7 is patentable under 35 U.S.C. § 103(a) over Serbiak et al in view of Krautkramer et al for this additional reason.

For the reasons explained below, applicants respectfully traverse the rejection of claims 13, 14 and 16-19 under 35 U.S.C. 103(a) as being unpatentable over Serbiak in view of Popp et al.

Popp et al fails to correct the deficiencies noted above in the Office Action's application of Serbiak et al. Applicants therefore respectfully submit that claims 13, 14 and 16-19 are patentable under 35 U.S.C. 103(a) over Serbiak in view of Popp et al.

Applicants respectfully request reconsideration and reexamination of claims 1-9, 13, 14, 16-19 and 25, as presented herein, and submit that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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